

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**OUTMEMPHIS; MICHELLE)
ANDERSON; JANE DOE 2;)
JANE DOE 3; and JANE DOE 4,)**

**Plaintiffs,)
v.)**

**BILL LEE, in his official capacity as)
Governor of Tennessee; JONATHAN)
SKRMETTI, in his official capacity as)
Attorney General and Reporter of)
Tennessee; DAVID RAUSCH, in his)
official capacity as Director of the)
Tennessee Bureau of Investigation;)
and FRANK STRADA, in his official)
capacity as Commissioner of the)
Tennessee Department of Correction,)**

Defendants.)

**-----)
UNITED STATES OF AMERICA,)**

Plaintiff,)

v.)

**STATE OF TENNESSEE, and)
TENNESSEE BUREAU OF)
INVESTIGATION,)**

Defendants.)

**Case Nos. 2:23-cv-2670
2:24-cv-02101**

Chief Judge Lipman

STATE ENTITIES' MOTION FOR CERTIFICATION UNDER 28 U.S.C. § 1292(b)

The State of Tennessee and the Tennessee Bureau of Investigation (“State Entities”) hereby move under 28 U.S.C. § 1292(b) for this Court, in the event it denies the State Entities’ Motion to Dismiss, to certify its order for interlocutory appeal and to include in its order the following statement:

This Court is of the opinion that its order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal may materially advance the ultimate termination of the litigation, namely: Whether DOJ has a cause of action to sue Tennessee under Title II.

The State Entities' Motion to Dismiss presents a controlling question of law because DOJ's complaint must be dismissed if the State Entities are right that it does not have a cause of action. There is a substantial ground for difference of opinion about that question, as evidenced by the divergent conclusions reached by the only judges to consider the issue. And an immediate appeal will materially advance the ultimate termination of the litigation by avoiding expansive discovery.

If the Court denies the State Entities' Motion to Dismiss, it should certify that order for interlocutory appeal under 28 U.S.C. § 1292(b).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2024, a true and exact copy of the foregoing was served via the court's electronic filing system upon counsel as follows:

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